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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 648th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 21 September 2000, at 3 p.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44581 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report on the Overseas Dependent Territories and Crown Dependencies of the United Kingdom of Great Britain and Northern Ireland (CRC/C/41/Add.7 and Add.9; CRC/Q/UK-OT/1 (list of issues); written replies of the United Kingdom of Great Britain and Northern Ireland - Overseas Territories to the questions on the list of issues (document without a symbol distributed in the meeting room in English only)) (continued)

1. At the invitation of the Chairperson, the members of the delegation of the United Kingdom of Great Britain and Northern Ireland resumed their places at the Committee table.

2. Ms. KARP expressed regret that no mention had been made in the reports on the various Territories of the specific problems encountered on the ground. On the subject of reservations, she noted that the Isle of Man had been urged to reverse its decision, and encouraged the other Territories to do likewise, on the understanding that there might be different reasons for each Territory's reservations. Moreover, observing that the Cayman Islands and the Falkland Islands had enacted laws aimed at the implementation of the human rights conventions, a prerequisite for respect of children's rights, she asked whether the other Territories planned to follow suit. What form did implementation of the Convention take in a Territory such as Pitcairn Island, with a mere 45 inhabitants? Lastly, was access to higher education guaranteed on the island?

3. Mr. FIFOOT (United Kingdom) pointed out that Pitcairn Island had a subsistence economy and that the notion of services did not correspond to the actual situation on the island. Education was paid for by Pitcairn Island, but administered, with the help of New Zealand, and assigned an important place to practical subjects (such as carpentry) to its eight pupils aged 5-15. Pupils wishing to receive higher education needed to go to New Zealand and were subsidized.

4. Ms. KARP, turning to Montserrat, asked whether specific measures had been adopted for the psychological rehabilitation of children in the wake of the disaster, and what plans the authorities had for rebuilding the island. Since only one third of the island was once more habitable, what did the authorities still need to do for the situation to return entirely to normal?

5. Mr. TAYLOR (United Kingdom) said that the rebuilding work had been considerable and that progress had been made on children's rights. Indeed, attention had been paid to that question ever since the peak of the crisis. Children aged 5-11 attended two primary schools, one of them denominational. Infants attended a public nursery school from age 1 to 2¾, at which point they moved on to a day-care centre, also public, until age 5. On 1 September 2000 the island's secondary school, relocated in temporary premises, had returned to its own building, which had been completely renovated. The State paid for uniforms and textbooks for disadvantaged families and helped the poorest to subsidize the cost of their children's nutrition needs. The launching of the reform of the Department of Community Services had served to garner the views of children, who were also represented on the National Education Advisory Committee.

6. All children enjoyed access to health services and were immunized against the major diseases. A sustainable development plan was shortly to be approved. The population had been consulted for its preparation and was prepared to do its utmost, in collaboration with the United Kingdom Government and the regional institutions, to rebuild the country. All families with children had already been rehoused and a soft-mortgage scheme set up to help people rebuild their homes. The Government also planned to take steps to restore home ownership to the population.

7. In terms of economic activity, emphasis was placed on new technologies. For instance, computer studies had been introduced in primary education and would soon be extended to secondary schools. It was also planned to make use of the volcanoes for tourism. In an effort to alleviate any trauma experienced by the population as a whole, and children in particular, the Government had appointed a psychologist, whom it was hoped would soon be joined by a United Nations volunteer psychologist.

8. Ms. SARDENBERG asked whether human rights education was being incorporated into the school curriculum.

9. Mr. TAYLOR (United Kingdom) said there were plans to include that subject in the curriculum. For the time being, however, human rights were touched upon in other subjects.

10. Ms. RILANTONO expressed satisfaction that the Montserrat administration had created a National Committee for the Promotion of the Rights of the Child, and said she would like to see the other Territories and Crown Dependencies emulate it.

11. Mr. TAYLOR (United Kingdom) said the disaster that had struck the island had doubtless influenced the creation of that committee, which comprised representatives of the authorities and civil society.

12. Mr. FULCI asked what penalty was incurred by parents who failed to register children within 21 days of their birth, as required by law.

13. Mr. TAYLOR (United Kingdom) said he did not know the answer to the last question, but was under the impression that the hospital where a child was delivered transmitted the information concerning the newborn baby to the Registry.

14. Ms. MOKHUANE inquired how the rights of disabled children were protected; what were the reasons for the high truancy rate, and whether the legal minimum age of sexual consent was the same for boys and girls.

15. Mr. TAYLOR (United Kingdom) said that prior to the volcanic eruptions, disabled children had been looked after by the State and the local branch of the British Red Cross Society. However, all personnel specializing in the education of disabled children had since left the island. Until their replacements should arrive, the less severely disabled children had been integrated into primary schools, which posed a challenge for teachers, who had not been trained to perform that task. The more seriously disabled children were being cared for abroad. Most truants were boys because parents found it quite acceptable for boys to go to the beach and enjoy

the sea breeze, while their daughters remained at home and read. The Ministry of Education was well aware of the problem and would do all in its power to remedy the situation. The legal minimum age of sexual consent was 16 for both sexes.

16. Ms. KARP asked what the situation was in the various Territories with regard to legislation; coordination; establishment of a comprehensive plan of action; monitoring; the possibility of establishing an independent institution to hear children's complaints; education; and awareness campaigns.

17. Mr. DOEK asked what practical difficulties had prevented the Children Law from entering into force in the Cayman Islands, and whether there were plans to reduce the age of majority from 21 to 18 in Bermuda.

18. Ms. TODD (United Kingdom) said that once Bermuda had become party to the Convention, a National Child Rights Committee (NCRC) had been established there. Comprising representatives of the Government, civil society, non-governmental organizations (NGOs) and youth associations, its mandate was to assess the state of observance of children's rights and to consider ways of implementing long-term programmes. The committee worked in partnership with civil society, families and children. It was also part of a child protection team that looked after children in hospital, and of a team that intervened actively in all other contexts.

19. One of Bermuda's strengths in the area of child welfare was that the Department of Health, the Department of Child and Family Services and the Department of Financial Assistance all came under the Ministry of Health and Social Services, which was very helpful for coordination and the impact of ministerial decisions. When parents were unable to provide for their children's needs, the first response was not to take the child into care, but rather to help them assume their parental responsibilities.

20. A screening programme for developmental abnormalities in children under 2, involving their parents, had been set up and a Children Act had been drafted on the basis of the Convention and the 52 recommendations of the Task Force on Child Abuse. That Act provided that the views of the child should be taken into account, especially in matters of custody. It had also been prescribed that children should have access to advocacy to help them through the procedure, and the Child Care Placement Advisory Board closely monitored the situation of all children in care. Mandatory reporting of suspected child abuse was also the subject of a provision, as was the establishment of a Child Abuse Register in an effort to prevent recidivism. The new Act empowered the courts to order that abused children should remain with the family and that the perpetrator should leave.

21. Ms. O'NEAL (United Kingdom) said that the Government of the British Virgin Islands had not planned to prepare a separate Children Act, but was intending to make a number of amendments to the Juvenile Act. Those included mandatory reporting of child abuse, and the establishment of a Child Services Board, on which representatives of all services involved in child protection would serve. The British Virgin Islands would also shortly be receiving technical assistance and training support from UNICEF.

22. In the field of coordination, the Intersectoral Social Services Committee was already in place and, in accordance with the UNICEF programme, a child rights committee responsible for project implementation and awareness-raising was due to be established. The Human Rights Reporting Committee, responsible for determining conformity of the Territory's legislation and programmes with the international conventions applicable in the British Virgin Islands, was currently preparing recommendations for submission to the Government.

23. School syllabuses did not as yet provide for education on the Convention, but discussions on the subject had been initiated with the Department of Education. The Intersectoral Social Services Committee also planned to create a post for a child to serve as national spokesperson for promotion of the Convention. In addition, the British Virgin Islands participated in regional projects for enhancing cooperation with the other Overseas Territories.

24. Mr. CHRISTIE (United Kingdom) said that the Cayman Islands' Children Law 1995 had not yet entered into force because the Government had deemed it unenforceable as it stood. The Executive Council had appointed a steering committee which had entrusted a working party comprising representatives of the Police Force, the Departments of Social Services, Health, Education and Immigration and the Ministry of Community Development and Youth Affairs to undertake an in-depth review of the Law. The bill to revise the Law could not be adopted before the election of the Legislative Assembly in November.

25. The Government had, as far as possible, enforced the principles enshrined in the new Law as though it were already in force. Although it was as yet under no obligation to do so, it had requested the Ministry of Health, Drug Abuse Prevention and Rehabilitation to take certain measures to assure the well-being of the children affected.

26. The reservation to article 37 (c) would very probably be withdrawn. In fact, it was planned to build separate establishments for children in detention, where they could pursue their studies. Work was to begin in November and the British Government would most likely request that children detained in other islands of the region should be housed there. Where coordination was concerned, a draft national youth strategy - the outcome of discussions among governmental and non-governmental youth agencies - was being prepared by a joint steering committee.

27. There were plans to appoint a children's ombudsman; it had not yet been decided whether that person would be empowered to hear complaints from children or their representatives, but a mechanism for doing so already existed: children could approach the Department of Social Services, the Juvenile Bureau, certain special police units, school counsellors and social workers or call a free "child line" run by the National Council of Voluntary Organizations. The Department of Social Services and a multidisciplinary child protection team spearheaded awareness courses to encourage all persons working with children to report cases of child abuse.

28. The United Kingdom Government had commissioned a study into the effectiveness of the human rights provisions in the Overseas Territories. Since, unlike other Territories, the Cayman Islands had no bill of rights, a decision needed to be taken on whether one should be enacted, or whether all the bills of rights should be replaced by an international treaty such as the European Convention on Human Rights.

29. Mr. LANGRIDGE (United Kingdom) said that the Children Ordinance promulgated by the Falkland Islands Government in 1994 was largely based on the United Kingdom's Children Act 1989. Given the small number of children in the Falklands (350) and the close collaboration among the various departments and units involved in children's issues, problems that emerged could be rapidly addressed and resolved. Children aged 8-16 had the opportunity to learn what their rights were, through educational programmes. It was, however, also important to address the issue of children's responsibilities in tandem with that of their rights.

30. Where protection was concerned, two social workers from the United Kingdom had been recruited to deal with abused children, and the Legislative Council had recently promulgated a law to ensure that children's testimony was videotaped. There was no specific mechanism for receiving complaints from abused children. School personnel were, however, prepared to listen to them, while children living in very remote areas could speak to a teacher who visited their region to give them lessons.

31. Ms. ELLICK (United Kingdom) observed that St. Helena was one of the most remote places in the world and that its inhabitants seldom had any choice but to leave the island to find work. Consequently, one of the social workers' main concerns was the welfare of children whose parents worked abroad and who generally lived with the extended family. For three years the St. Helena authorities had enjoyed the services of a consultant, who, among other things, had helped set up a child protection group composed of representatives of the Social Services, Health, Education, and Police Departments, as well as charitable organizations. That group, which also looked into the situation of families, had already helped resolve numerous problems.

32. A hotline for children allowed them to be listened to and receive advice at any time. In addition, a mechanism that enabled all parties involved in the activities of the Juvenile Court to consult agencies and departments working with minors had recently been established and had also proved very useful.

33. At the legislative level, the authorities had undertaken to review the Child Care Ordinance 1996 (also in force in Ascension and Tristan Da Cunha), once its inadequacy had been detected in connection with the recent arrival of a Burundian child.

34. Mr. FIFOOT (United Kingdom) stressed that Anguilla and the Turks and Caicos Islands were among the poorest and least populous Caribbean Overseas Territories and that their services were consequently limited. As far as the penal system was concerned, those Territories continued to enforce the Juvenile Act and the Juvenile Courts Act. Although still in effect, they were both antiquated instruments, which was why Anguilla had prepared a draft Children Law, which was shortly to be examined. A strategy to curb youth crime and a five-year education plan had also recently been adopted there. In addition, the Turks and Caicos Islands had undertaken to prepare new child-protection legislation, as well as a five-year education plan and a plan of action on nutrition. It should be pointed out that the measure whereby children removed from parental custody were placed in special care institutions in Jamaica had not been applied to any child since 1994.

35. The reservation entered by Great Britain to article 37 (d) of the Convention had never been applied to its Overseas Territories. Nevertheless, three other pertinent reservations concerning articles 22, 32 and 37 (c) respectively had had to be duly maintained because of certain special characteristics (remoteness, small size, tiny population, and differing definitions of the child). The Committee's expressed interest in that matter would, however, be brought to the attention of the authorities, who would look into the possibility for change.

36. Ms. SARDENBERG requested details concerning government anti-discrimination measures in Bermuda and the British Virgin Islands on behalf of children born out of wedlock, and steps to address the problem of early pregnancies and improve the situation of single-parent families. She would particularly like to know whether there were any parent education programmes in those territories.

37. Mr. DOEK, noting that in certain territories persons under 17 were not regarded as children, while the Convention was concerned with persons under 18, asked whether steps would be taken to remedy the situation. On the subject of the age of criminal liability, since children were rarely prosecuted before the age of 14 and were, therefore, deemed incapable of breaking the law before that age, why was the age of criminal liability not raised? When children were prosecuted, to what bodies were they referred? And what criteria were used to determine that a child had acted with full understanding of right and wrong?

38. He asked what specific measures were taken to promote not only children's right freely to express their views, but also their participation, at school for instance. He also wished to know what methods were used for periodic review of the situation of children placed away from their families. He was pleased to observe that Bermuda had instituted an inspection system in which visits were paid to children in centres and homes, and inquired whether other territories had put similar mechanisms in place. He would also like to know what was being done to sensitize the public to the problem of abused or neglected children, and what procedures existed for reporting cases of domestic violence, with a view to action.

39. According to the report in respect of Bermuda, overseas students studying at British universities were normally charged higher fees than United Kingdom residents. Could that practice not be described as discriminatory?

40. Ms. RILANTONO noted that the minimum age of admission to employment was generally 14 for light and part-time work in the Overseas Territories. However, education was compulsory up to age 16. Fearing that the possibility of employment might encourage school-age children to abandon their studies, she inquired what was understood by light work and how many hours of work were deemed acceptable for a child. She deplored the fact that the Overseas Territories had not yet ratified International Labour Organization (ILO) Conventions Nos. 138 and 142 on minimum age of admission to employment and elimination of the worst forms of child labour, respectively.

41. What was being done to guarantee children's access to appropriate information, and what results had been achieved? Was there religious instruction in schools? What explanation was there for the abundance of female heads of family in all the Overseas Territories? And what social assistance did those families receive?

42. Mr. FULCI asked what was the position of all the Territories with regard to the reservation to article 32.

43. The report indicated that children born in hospital were duly registered in certain Territories. What happened to those not born in hospital? In St. Helena there was no time limit for registration of births. Did that mean that parents who did not register their children were not sanctioned in any way? Moreover, were there any data concerning children sent abroad for adoption, or statistics on international adoption of children born in the Overseas Territories, including on the countries of destination?

44. Child abuse appeared to be a major problem in the Caribbean Overseas Territories. The report of the Task Force set up by the Government in 1996 to investigate the phenomenon in Bermuda contained highly disturbing information, especially concerning physical and sexual abuse of children. Had any measures been taken as a result?

45. Ms. TIGERSTEDT-TÄHTELÄ observed that the Territories' legislation contained various anti-discrimination provisions, but no general clause prohibiting all forms of discrimination. It was therefore important for them to envisage adopting such a clause, modelled on the Convention. She also stressed that the need to guarantee equal treatment of all children did not mean that they must be treated uniformly, since certain groups (such as the disabled) needed more sustained assistance.

46. Ms. KARP reaffirmed the need to prohibit corporal punishment both in the home and at school. She also asked whether any follow-up had been given, especially in the Caribbean, to the Caribbean Youth Summit on Adolescent Sexual and Reproductive Health and Rights, held in Barbados in 1998. She understood that none of the Territories that banned homosexuality had lifted the ban although they had been urged to do so by the British Government. Why was that?

47. How was it that in the Falklands no thought had been given to raising the legal minimum age for consumption of alcohol, which was currently 5 years of age in a private place? Also, was it reasonable for parents of children obliged to attend secondary school in Stanley to be required to pay for their accommodation?

48. Certain Territories still practised discrimination against children born out of wedlock. Was it planned to take steps to put an end to that situation? With regard to the fight against drug abuse, what had been the impact of current programmes? Why had a new strategy on that issue been established in Bermuda? And what did it comprise?

49. Ms. TODD (United Kingdom) said that the Bermuda Constitution provided for the protection of all persons residing on Bermudan territory against all forms of discrimination. Bermuda's Human Rights Commission was authorized to hear children's complaints and conduct inquiries. When it came to inheritance, children born out of wedlock were penalized in favour of children of married couples, but there were plans to amend the relevant laws in the near future.

50. The Constitution endowed children with the right to testify in their own favour before the courts, in default of which the judge refused to hear the case. Special heed was taken of children's opinions in anything to do with custody or adoption. With regard to periodic review of placements, the Protection of Children Act was in the course of revision, and an initial series of amendments had already been proposed.

51. One component of human rights had been integrated into the secondary-school syllabus, and Bermuda intended to expand such education to all the country's schools. An educational video had been produced for use in schools.

52. Where sexual abuse and the obligation to report it were concerned, Bermuda placed emphasis on raising public awareness. Alert to the fact that prevention depended on imparting information to parents, children and the public at large, each year the authorities, in cooperation with the NGOs and the other organizations present in the country, organized the Sexual Assault Promotion Month and International Children's Day. The unit in charge of investigating child abuse had based its recommendations on the legal provisions on child protection, particularly those relating to mandatory reporting of suspected sexual abuse, to awareness-raising among the child population and to the training of professionals involved with children. If funds were available, Bermuda would create, in collaboration with the police, an action unit responsible for combating domestic violence. The Young Offenders Act was being revised with a view to raising the age of criminal liability.

53. The Employment of Children and Young Persons Act also needed review. The Prime Minister had urged that the matter should be assigned top priority. Bermuda would supply additional information on the subject with its next periodic report.

54. Bermuda endeavoured to provide financial assistance to all persons in difficulty, including single-parent families with women as heads of household, which were particularly vulnerable inasmuch as they lived on only one salary. Such families received housing assistance and allowances for children in their charge, which covered day-care fees.

55. Ms. O'NEAL (United Kingdom) explained that the British Virgin Islands had recently abolished judicial corporal punishment and hoped that that measure would open the way for total abolition of the practice in schools and in the home.

56. While there were no reported cases of adoption of children from the Virgin Islands, some parents did adopt children from other Caribbean islands, chiefly Saint Lucia and Haiti. All those adoptions were coordinated by the Social Development Department and the institution in the child's country of origin.

57. The Virgin Islands had many single-parent families headed by women, and a recent survey had revealed that 15 per cent of them lived below the poverty line. Consideration was currently being given to how those persons could be helped, and various services and a financial assistance mechanism were being set up.

58. The Virgin Islands had no plans to raise the age of criminal responsibility, which was currently 10, but intended to establish alternative sentences so as not to imprison children.

59. The Social Development Department regularly monitored all children in foster families. In tandem with the adoption of the Mandatory Reporting of Sexual Abuse Act, the Virgin Islands had set up a programme to teach persons involved with children, especially teachers, to recognize children at risk so that they could benefit from specialized services.

60. Children born out of wedlock were not discriminated against with regard to education and access to services, but they had no right of succession in the absence of a will in their favour. For religious reasons, the population was opposed to any change in that field.

61. Pregnant teenagers were authorized to continue their studies if they so wished, and the Education Department had launched a special programme for looking after the younger ones.

62. Mr. CHRISTIE (United Kingdom) said that the Cayman Islands and other Overseas Territories had not expressed their intention to remove the principle of presumption of criminal liability from their legislation. That principle obliged magistrates to provide prima facie evidence of a child's discernment capacity. If the United Kingdom had decided to abolish that principle from its legislation it was because it believed that the very essence of judicial instruction was to determine, on the basis of the evidence, whether the accused had acted with full understanding of the situation. In that case, the principle added nothing to the protection of a child accused of committing a crime.

63. No child under 12 had been found guilty of an offence in the Cayman Islands in 1999. The Cayman Islands had no really satisfactory answer to the question why it did not raise the age of criminal responsibility from 8; in any event, it was aware that article 40 (3) (a) of the Convention did not stipulate a precise age, proof that consensus had not been reached on the subject among its drafters.

64. Since 16 was the age of consent for heterosexual relations and 18 for homosexual relations, only children aged 16-18 were affected by the homosexuality provisions. On that subject the European Commission on Human Rights had ruled against the United Kingdom, in its conviction that to establish different ages for heterosexual and homosexual relations was in itself discriminatory. The United Kingdom had announced its intention to legislate on the matter to eliminate that anomaly.

65. Mr. TAYLOR (United Kingdom) said that primary and secondary schools in Montserrat gave catechism classes but persons of other religions were free not to attend.

66. Single parents abounded in Montserrat. Quite often parents did not live together; the child remained in the mother's charge, with the father paying occasional visits.

67. Turning to corporal punishment, he said it would in fact be desirable to review the legislation since the main schools and parents still felt they had the right to inflict reasonable corporal punishment on children.

68. Mr. LANGRIDGE (United Kingdom) agreed that the age of criminal liability needed to be raised in the Falkland Islands, even though no child aged 10-14 had been found guilty of an offence in the previous six years. He undertook to draw the Attorney-General's attention to the matter.

69. In a small community like the Falkland Islands, it was easy to alert the population to the problems of sexual abuse and negligence, since news of that kind travelled fast and awareness came on its own. On the subject of homosexuality, a person under the age of 18 could not consent to homosexual relations under British law; if that law were to be amended, the Falkland Islands would follow suit. Where private consumption of alcohol was concerned, it was hard to understand what had prompted the legislator to establish 5 as the minimum age of consumption in private.

70. Registration of births was automatic in the Falkland Islands for all children born in hospital. Children were encouraged to express their views. The law prohibited the employment of children of school age for more than two hours a day; it was therefore impossible for truancy to be influenced by a child's work. Religious instruction was prohibited, but courses in comparative religion were provided in order to give children an idea of the world's different religions. The Falklands took care to protect children against all forms of discrimination, especially in education. It was indeed unreasonable that university fees of residents of the islands should be eight times higher than those of students from the United Kingdom. Parents whose children went to school in Stanley had to contribute to their school fees, but those were minimal compared to the real cost of a year's education and were waived for families in financial difficulty.

71. Although the Education Ordinance authorized corporal punishment in schools for boys 11 or over, it had not been inflicted for years; thought could indeed be given to its abolition.

72. Ms. ELLICK (United Kingdom) said the birth registration system in St. Helena was not flawed, since parents were required by law to report a child's birth to the Registrar General's Office within 21 days. The number of adoptions was very small in St. Helena, but foster-family placement service did exist. The social services were extremely vigilant and closely monitored the situation of children thus placed. In order to prevent sexual abuse and cases of negligence, persons in contact with children were made aware of the problem and learned to detect cases of ill-treatment.

73. Mr. FIFOOT (United Kingdom) explained that the respective Constitutions of the Turks and Caicos Islands and Anguilla provided that no law could advocate measures that were discriminatory in themselves or on account of their effect. On the subject of child labour, the Turks and Caicos Islands prohibited the employment of children of school age during school hours, while Anguilla prohibited work by children under 14, and of those under 17 during the academic year. For the two ILO Conventions on child labour to be introduced in those two Territories, they would need to be consulted in advance, and that had not yet been done.

74. Mr. DOEK, returning to the age of criminal responsibility, stressed that no general rules could be formulated on the basis of potential specific cases or heinous crimes. While it might be true that article 40 (3) (a) of the Convention did not establish a specific age of criminal responsibility, which proved that the drafters had not reached consensus, that did not mean that most of the 191 signatory countries did not wish to set it at older than 8.

75. Ms. KARP considered that the first question to be asked was whether criminal proceedings, with all they entailed, could reasonably be initiated against children, or whether it was not better to regard the authors of minor infractions as victims of society who deserved to be treated accordingly.

The meeting rose at 6 p.m.